

Office of Legislative Liaison
Routing Slip

TO:	ACTION	INFO
1. D/OLL		✓
3. DD/OLL		✓
3. Admin Officer		✓
4. Liaison		
5. Legislation	✓	
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SUSPENSE *Feb 27 1984*
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Remarks:		STAT

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

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February 27, 1984

LEGISLATIVE REFERRAL MEMORANDUM

Legislative Liaison Officer

TO:

Department of Justice
Department of Defense
United States Information Agency
Central Intelligence Agency
National Security Council

SUBJECT:

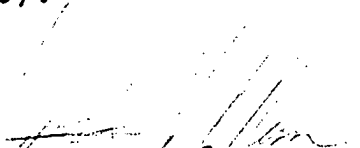
General Services Administration testimony on
H.R. 4620, the "Federal Telecommunications
Privacy Act."

(USIA and NSA testimony will be circulated as
soon as it is received.)

The Office of Management and Budget requests the views of your
agency on the above subject before advising on its relationship
to the program of the President, in accordance with OMB Circular
A-19.

Please provide us with your views no later than 10:00 a.m., Wednesday,
February 29, 1984.

Direct your questions to me at (395-4870).


James C. Murr for
Assistant Director for
Legislative Reference

Enclosures

cc: Adrian Curtis
Frank Reeder

Jim Jordan
Fred Fielding

Mike Uhlmann
Arnie Donahue

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STATEMENT OF
FRANK J. CARR
ASSISTANT ADMINISTRATOR, OFFICE OF
INFORMATION RESOURCES MANAGEMENT
GENERAL SERVICES ADMINISTRATION
BEFORE THE
SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY
HOUSE COMMITTEE ON GOVERNMENT OPERATIONS
MARCH 1, 1984

Mr. Chairman and members of the Subcommittee, I wish to express my appreciation for the opportunity to testify today on the H.R. 4620, a bill to prohibit the recording of conversations made by Government employees for official business on the Federal Telecommunications System (FTS) and any other telephone system.

The FTS is under the overall direction and management of the General Services Administration (GSA). Within GSA, these responsibilities and authorities have been delegated to the Office of Information Resources Management (OIRM). The FTS includes both the intercity voice network and the consolidated local telephone service and is the primary and recommended system for use by Federal employees in the conduct of Federal government business.

Except for very limited exceptions, listening-in or recording conversations on the FTS is prohibited by GSA regulation (41 CFR

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101-37.311). The regulations permit nonconsensual monitoring of telephone conversations only when authorized and handled in accordance with requirements of the Omnibus Crime Control and Safe Streets Act of 1968 and the Foreign Intelligence Surveillance Act of 1978. In regard to listening-in or recording of conversation in cases where one party has consented to the interception, exceptions to the general prohibition include, in addition to interceptions for law enforcement and counter-intelligence purposes, monitoring (1) for public safety purposes, (2) to allow a handicapped employee to perform official duties, (3) to monitor the quality of agency service, or (4) with the consent of both parties. Each of the exceptions contains limitation to insure that monitoring is allowed only when absolutely necessary.

H.R. 4620 would amend the Federal Property and Administrative Services Act of 1949 (Federal Property Act) by adding a new section covering the recording or listening-in upon telephone conversations. The bill embodies to a large extent GSA's present regulations discussed above. H.R. 4620 would also make all recordings or transcripts of telephone conversations a within a "system of records" under the Privacy Act and apply the criminal penalties set forth in 18 U.S.C. 2071 to the removal or destruction of such recordings or transcripts.

We certainly cannot criticize the purpose ~~or the wording~~ of the portions of H.R. 4620 which were taken from the GSA regulation.

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We are concerned, however, that placing this language in a statute may hinder, rather than help, our efforts to reduce abuses in the monitoring of telephone conversations. If present regulations are locked into statute, we will lose needed flexibility. Regulations can be easily modified to meet new circumstances. This is especially important in the area of telecommunications with its rapidly developing technology. Provisions in statute are not nearly as adaptable. The legislative process does not lend itself to quick-action, even in cases where there is consensus on the need for change. GSA would be able to deal more effectively with the problems of listening-in or recording conversations if the prohibitions would remain in regulations alone.

GSA does support the provisions of H.R. 4620 which clarify the status of recordings or transcripts of telephone conversations as "records." By making these recordings and transcripts "records in a system of records" under the Privacy Act, the bill would guarantee that each party to a conversation would have access to the recorded or transcribed conversations in which he or she was a participant. Furthermore, the recording or transcripts could be used and disclosed only for the limited purposes described in the Privacy Act. Agencies would also be required to publish a notice in the Federal Register when a system of records dealing with recordings or transcriptions of telephone conversations is established or revised. Most important, we note that the Privacy Act contains "teeth" to enforce its provisions in the form of

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criminal penalties for violations of the Act. We believe that these enforcement provisions, along with the criminal penalties imposed by 18 U.S.C. 2071 for the removal and destruction of records, would serve to focus attention on all the restrictions on monitoring telephone conversation, including the GSA regulations.

This concludes my prepared statement, Mr. Chairman. I would be glad to respond to questions you or other members of the Subcommittee may have.